

Assembly Bill No. 1529

CHAPTER 470

An act to amend Section 25762 of the Business and Professions Code, to amend Sections 116.940 and 631.2 of, to amend the heading of Article 7 (commencing with Section 116.710) of Chapter 5.5 of Title 1 of Part 1 of, to add Section 116.798 to, and to repeal Section 631.1 of, the Code of Civil Procedure, to amend Section 56159 of the Education Code, to amend Sections 731, 752, 753, and 754 of the Evidence Code, to amend Sections 1814, 1820, 1834, 1838, 1850, 3025.5, 3170, 3173, 3188, 6303, 7553, and 7556 of the Family Code, to amend Sections 1750, 23249, 23332, 23535, 24350, 24351, 24353, 25252.6, 27080.1, 29320, 29370, 29370.1, 29371, 29372, 29373, 29374, 29375, 29376, 29377, 29379, 29603, 31116, and 68098 of, and to add Sections 68083 and 68083.5 to, the Government Code, and to amend Section 1306 of, and to add Section 1305.5 to, the Penal Code, relating to courts.

[Approved by Governor September 23, 2012. Filed with
Secretary of State September 23, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1529, Dickinson. Trial courts: restructuring and bail forfeiture.

Existing law provides for the restructuring of the trial court system, including the abolition of municipal courts, the unification of those courts with superior courts, and state funding of trial courts. Under existing law, a statutory reference to a judicial district that relates to a municipal court in a county in which unification has occurred generally means the county, as specified.

This bill would modify provisions of law to reflect trial court restructuring. As part of these modifications, this bill would delete obsolete references to municipal courts and would specify the jurisdiction of a writ petition relating to a small claims case in the unified state court system. Further, this bill would revise various provisions to reflect the state's responsibility for trial court funding, including provisions related to jury fees in civil cases, payment of expert witnesses, interpreters, and translators in criminal actions, juvenile proceedings, and certain civil actions. This bill would also delete obsolete references to judicial districts, counties, and county entities following trial court restructuring. Additionally, this bill would prescribe the rules applying to the acceptance of money by superior courts to reflect trial court restructuring.

Existing law also provides for the forfeiture of the undertaking of bail when a defendant fails to appear in court. Under existing law, a court must enter a summary judgment against the bondsman named in the bail bond

within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice, regardless of the amount of the bail.

This bill would provide that an appeal from an order of the superior court on a motion to vacate a bail forfeiture shall be to the court of appeal as an unlimited civil case if the amount in controversy exceeds \$25,000, and to the appellate division of the superior court as a limited civil case if the amount in controversy does not exceed \$25,000, except as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 25762 of the Business and Professions Code is amended to read:

25762. (a) All fines and forfeitures of bail imposed for a violation of this division and collected in any felony case after the indictment or the legal commitment by a magistrate, or at or after the sentencing hearing, shall be paid to the county treasurer of the county in which the court is held.

(b) All fines and forfeitures of bail imposed for violation of this division and collected upon conviction or upon forfeiture of bail, together with money deposited as bail, in any misdemeanor or infraction case, or in any felony case at the preliminary hearing or at another proceeding before the legal commitment by a magistrate, shall be deposited with the county treasurer of the county in which the court is situated and the money deposited shall be distributed and disposed of pursuant to Section 1463 of the Penal Code.

(c) For purposes of this section, a case in which both a felony and a misdemeanor were charged shall be treated as a felony case.

SEC. 2. The heading of Article 7 (commencing with Section 116.710) of Chapter 5.5 of Title 1 of Part 1 of the Code of Civil Procedure is amended to read:

Article 7. Motion to Vacate, Appeal, and Related Matters

SEC. 3. Section 116.798 is added to the Code of Civil Procedure, to read:

116.798. (a) (1) A petition that seeks a writ of review, a writ of mandate, or a writ of prohibition relating to an act of the small claims division, other than a postjudgment enforcement order, may be heard by a judge who is assigned to the appellate division of the superior court.

(2) A petition described by paragraph (1) may also be heard by the court of appeal or by the Supreme Court.

(3) Where a judge described in paragraph (1) grants a writ directed to the small claims division, the small claims division is an inferior tribunal for purposes of Title 1 (commencing with Section 1067) of Part 3.

(4) The fee for filing a writ petition in the superior court under paragraph (1) is the same as the fee for filing a notice of appeal under Section 116.760.

(5) The Judicial Council shall promulgate procedural rules for a writ proceeding under paragraph (1).

(6) An appeal shall not be taken from a judgment granting or denying a petition under paragraph (1) for issuance of a writ. An appellate court may, in its discretion, upon petition for extraordinary writ, review the judgment.

(b) A petition that seeks a writ of review, a writ of mandate, or a writ of prohibition relating to an act of a superior court in a small claims appeal may be heard by the court of appeal or by the Supreme Court.

(c) A petition that seeks a writ of review, a writ of mandate, or a writ of prohibition relating to a postjudgment enforcement order of the small claims division may be heard by the appellate division of the superior court, by the court of appeal, or by the Supreme Court.

SEC. 4. Section 116.940 of the Code of Civil Procedure is amended to read:

116.940. (a) Except as otherwise provided in this section or in rules adopted by the Judicial Council, which are consistent with the requirements of this section, the characteristics of the small claims advisory service required by Section 116.260 shall be determined by each county, or by the superior court in a county where the small claims advisory service is administered by the court, in accordance with local needs and conditions.

(b) Each advisory service shall provide the following services:

(1) Individual personal advisory services, in person or by telephone, and by any other means reasonably calculated to provide timely and appropriate assistance. The topics covered by individual personal advisory services shall include, but not be limited to, preparation of small claims court filings, procedures, including procedures related to the conduct of the hearing, and information on the collection of small claims court judgments.

(2) Recorded telephone messages may be used to supplement the individual personal advisory services, but shall not be the sole means of providing advice available in the county.

(3) Adjacent counties, superior courts in adjacent counties, or any combination thereof, may provide advisory services jointly.

(c) In any county in which the number of small claims actions filed annually is 1,000 or less as averaged over the immediately preceding two fiscal years, the county or the superior court may elect to exempt itself from the requirements set forth in subdivision (b). If the small claims advisory service is administered by the county, this exemption shall be formally noticed through the adoption of a resolution by the board of supervisors. If the small claims advisory service is administered by the superior court, this exemption shall be formally noticed through adoption of a local rule. If a county or court so exempts itself, the county or court shall nevertheless provide the following minimum advisory services in accordance with rules adopted by the Judicial Council:

(1) Recorded telephone messages providing general information relating to small claims actions filed in the county shall be provided during regular business hours.

(2) Small claims information booklets shall be provided in the court clerk's office of each superior court, appropriate county offices, and in any

other location that is convenient to prospective small claims litigants in the county.

(d) The advisory service shall operate in conjunction and cooperation with the small claims division, and shall be administered so as to avoid the existence or appearance of a conflict of interest between the individuals providing the advisory services and any party to a particular small claims action or any judicial officer deciding small claims actions.

(e) Advisers may be volunteers, and shall be members of the State Bar, law students, paralegals, or persons experienced in resolving minor disputes, and shall be familiar with small claims court rules and procedures. Advisers may not appear in court as an advocate for any party.

(f) Advisers, including independent contractors, other employees, and volunteers have the immunity conferred by Section 818.9 of the Government Code with respect to advice provided as a public service on behalf of a court or county to small claims litigants and potential litigants under this chapter.

(g) Nothing in this section precludes a court or county from contracting with a third party to provide small claims advisory services as described in this section.

SEC. 5. Section 631.1 of the Code of Civil Procedure is repealed.

SEC. 6. Section 631.2 of the Code of Civil Procedure is amended to read:

631.2. (a) Notwithstanding any other provision of law, the superior court may pay jury fees in civil cases from general funds of the court available therefor. Nothing in this section shall be construed to change the requirements for the deposit of jury fees in any civil case by the appropriate party to the litigation at the time and in the manner otherwise provided by law. Nothing in this section shall preclude the right of the superior court to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section. Nothing in this section shall preclude the right of the county to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section as it read in Section 4 of Chapter 10 of the Statutes of 1988, or pursuant to former Section 631.1 as it read in Section 1 of Chapter 144 of the Statutes of 1971.

(b) The party who has demanded trial by jury shall reimburse the superior court for the fees and mileage of all jurors appearing for voir dire examination, except those jurors who are excused and subsequently on the same day are called for voir dire examination in another case.

SEC. 7. Section 56159 of the Education Code is amended to read:

56159. If a district, special education local plan area, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution or in a foster family home, the regional center for the developmentally disabled or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

SEC. 8. Section 731 of the Evidence Code is amended to read:

731. (a) (1) In all criminal actions and juvenile court proceedings, the compensation fixed under Section 730 shall be a charge against the county in which the action or proceeding is pending and shall be paid out of the treasury of that county on order of the court.

(2) Notwithstanding paragraph (1), if the expert is appointed for the court's needs, the compensation shall be a charge against the court.

(b) In any county in which the superior court so provides, the compensation fixed under Section 730 for medical experts appointed for the court's needs in civil actions shall be a charge against the court. In any county in which the board of supervisors so provides, the compensation fixed under Section 730 for medical experts appointed in civil actions, for purposes other than the court's needs, shall be a charge against and paid out of the treasury of that county on order of the court.

(c) Except as otherwise provided in this section, in all civil actions, the compensation fixed under Section 730 shall, in the first instance, be apportioned and charged to the several parties in a proportion as the court may determine and may thereafter be taxed and allowed in like manner as other costs.

SEC. 9. Section 752 of the Evidence Code is amended to read:

752. (a) When a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter whom the witness can understand and who can understand the witness shall be sworn to interpret for the witness.

(b) The record shall identify the interpreter, who may be appointed and compensated as provided in Article 2 (commencing with Section 730) of Chapter 3, with that compensation charged as follows:

(1) In all criminal actions and juvenile court proceedings, the compensation for an interpreter under this section shall be a charge against the court.

(2) In all civil actions, the compensation for an interpreter under this section shall, in the first instance, be apportioned and charged to the several parties in a proportion as the court may determine and may thereafter be taxed and allowed in a like manner as other costs.

SEC. 10. Section 753 of the Evidence Code is amended to read:

753. (a) When the written characters in a writing offered in evidence are incapable of being deciphered or understood directly, a translator who can decipher the characters or understand the language shall be sworn to decipher or translate the writing.

(b) The record shall identify the translator, who may be appointed and compensated as provided in Article 2 (commencing with Section 730) of Chapter 3, with that compensation charged as follows:

(1) In all criminal actions and juvenile court proceedings, the compensation for a translator under this section shall be a charge against the court.

(2) In all civil actions, the compensation for a translator under this section shall, in the first instance, be apportioned and charged to the several parties

in a proportion as the court may determine and may thereafter be taxed and allowed in like manner as other costs.

SEC. 11. Section 754 of the Evidence Code is amended to read:

754. (a) As used in this section, “individual who is deaf or hearing impaired” means an individual with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include an individual who is hearing impaired provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.

(b) In any civil or criminal action, including, but not limited to, any action involving a traffic or other infraction, any small claims court proceeding, any juvenile court proceeding, any family court proceeding or service, or any proceeding to determine the mental competency of a person, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or any administrative hearing, where a party or witness is an individual who is deaf or hearing impaired and the individual who is deaf or hearing impaired is present and participating, the proceedings shall be interpreted in a language that the individual who is deaf or hearing impaired understands by a qualified interpreter appointed by the court or other appointing authority, or as agreed upon.

(c) For purposes of this section, “appointing authority” means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.

(d) For the purposes of this section, “interpreter” includes, but is not limited to, an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hearing impaired.

(e) For purposes of this section, “intermediary interpreter” means an individual who is deaf or hearing impaired, or a hearing individual who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and other foreign languages by acting as an intermediary between the individual who is deaf or hearing impaired and the qualified interpreter.

(f) For purposes of this section, “qualified interpreter” means an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired.

(g) In the event that the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hearing impaired or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with the individual who is deaf or hearing impaired or his or her representative, appoint an intermediary interpreter.

(h) Prior to July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing

organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for individuals who are deaf or hearing impaired. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar, court interpreters, members of professional interpreting organizations, and members of the deaf and hearing-impaired communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines. By January 1, 1997, the Judicial Council shall approve one or more entities to administer testing for court interpreters for individuals who are deaf or hearing impaired. Testing entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

Commencing July 1, 1997, court interpreters for individuals who are deaf or hearing impaired shall meet the qualifications specified in subdivision (f).

(i) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Except as provided in subdivision (j), payment of the interpreter's fee shall be a charge against the court. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board or authority.

(j) Whenever a peace officer or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or non-court proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing impairment, a good faith effort to secure the services of an interpreter shall be made, without any unnecessary delay unless either the individual who is deaf or hearing impaired affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which the action is pending.

(k) No statement, written or oral, made by an individual who the court finds is deaf or hearing impaired in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding, may be used against that individual who is deaf or hearing impaired unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court makes special findings that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal

regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

(l) In obtaining services of an interpreter for purposes of subdivision (j) or (k), priority shall be given to first obtaining a qualified interpreter.

(m) Nothing in subdivision (j) or (k) shall be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for individuals who are deaf or hearing impaired participating as parties or witnesses in a trial or hearing.

(n) In any action or proceeding in which an individual who is deaf or hearing impaired is a participant, the appointing authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the participating individual who is deaf or hearing impaired.

(o) Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

SEC. 12. Section 1814 of the Family Code is amended to read:

1814. (a) In each county in which a family conciliation court is established, the superior court may appoint one supervising counselor of conciliation and one secretary to assist the family conciliation court in disposing of its business and carrying out its functions. When superior courts by contract have established joint family conciliation court services, the contracting courts jointly may make the appointments under this subdivision.

(b) The supervising counselor of conciliation has the power to do all of the following:

(1) Hold conciliation conferences with parties to, and hearings in, proceedings under this part, and make recommendations concerning the proceedings to the judge of the family conciliation court.

(2) Provide supervision in connection with the exercise of the counselor's jurisdiction as the judge of the family conciliation court may direct.

(3) Cause reports to be made, statistics to be compiled, and records to be kept as the judge of the family conciliation court may direct.

(4) Hold hearings in all family conciliation court cases as may be required by the judge of the family conciliation court, and make investigations as may be required by the court to carry out the intent of this part.

(5) Make recommendations relating to marriages where one or both parties are underage.

(6) Make investigations, reports, and recommendations as provided in Section 281 of the Welfare and Institutions Code under the authority provided the probation officer in that code.

(7) Act as domestic relations cases investigator.

(8) Conduct mediation of child custody and visitation disputes.

(c) The superior court, or contracting superior courts, may also appoint associate counselors of conciliation and other office assistants as may be necessary to assist the family conciliation court in disposing of its business. The associate counselors shall carry out their duties under the supervision of the supervising counselor of conciliation and have the powers of the

supervising counselor of conciliation. Office assistants shall work under the supervision and direction of the supervising counselor of conciliation.

(d) The classification and salaries of persons appointed under this section shall be determined by:

(1) The superior court of the county in which a noncontracting family conciliation court operates.

(2) The superior court of the county which by contract has the responsibility to administer funds of the joint family conciliation court service.

SEC. 13. Section 1820 of the Family Code is amended to read:

1820. (a) A court may contract with any other court or courts to provide joint family conciliation court services.

(b) An agreement between two or more courts for the operation of a joint family conciliation court service may provide that one participating court shall be the custodian of moneys made available for the purposes of the joint services, and that the custodian court may make payments from the moneys upon audit of the appropriate auditing officer or body of the court.

(c) An agreement between two or more courts for the operation of a joint family conciliation court service may also provide:

(1) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating court under contract for the other participating courts.

(2) For appointments of members of the staff of the family conciliation court including the supervising counselor.

(3) That, for specified purposes, the members of the staff of the family conciliation court including the supervising counselor, but excluding the judges of the family conciliation court, shall be considered to be employees of one participating court.

(4) For other matters that are necessary or proper to effectuate the purposes of the Family Conciliation Court Law.

(d) The provisions of this part relating to family conciliation court services provided by a single court shall be equally applicable to courts which contract, pursuant to this section, to provide joint family conciliation court services.

SEC. 14. Section 1834 of the Family Code is amended to read:

1834. (a) The clerk of the court shall provide, at the expense of the court, blank forms for petitions for filing pursuant to this part.

(b) The probation officers of the county and the attachés and employees of the family conciliation court shall assist a person in the preparation and presentation of a petition under this part if the person requests assistance.

(c) All public officers in each county shall refer to the family conciliation court all petitions and complaints made to them in respect to controversies within the jurisdiction of the family conciliation court.

(d) The jurisdiction of the family conciliation court in respect to controversies arising out of an instance of domestic violence is not exclusive but is coextensive with any other remedies either civil or criminal in nature that may be available.

SEC. 15. Section 1838 of the Family Code is amended to read:

1838. (a) The hearing shall be conducted informally as a conference or a series of conferences to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues in controversy.

(b) To facilitate and promote the purposes of this part, the court may, with the consent of both parties to the proceeding, recommend or invoke the aid of medical or other specialists or scientific experts, or of the pastor or director of any religious denomination to which the parties may belong. Aid under this subdivision shall not be at the expense of the court unless the presiding judge specifically authorizes the aid, nor at the expense of the county unless the board of supervisors of the county specifically provides and authorizes the aid.

SEC. 16. Section 1850 of the Family Code is amended to read:

1850. The Judicial Council shall do all of the following:

(a) Assist courts in implementing mediation and conciliation proceedings under this code.

(b) Establish and implement a uniform statistical reporting system relating to proceedings brought for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, including, but not limited to, a custody disposition survey.

(c) Administer a program of grants to public and private agencies submitting proposals for research, study, and demonstration projects in the area of family law, including, but not limited to, all of the following:

(1) The development of conciliation and mediation and other newer dispute resolution techniques, particularly as they relate to child custody and to avoidance of litigation.

(2) The establishment of criteria to ensure that a child support order is adequate.

(3) The development of methods to ensure that a child support order is paid.

(4) The study of the feasibility and desirability of guidelines to assist judges in making custody decisions.

(d) Administer a program for the training of court personnel involved in family law proceedings, which shall be available to the court personnel and which shall be totally funded from funds specified in Section 1852. The training shall include, but not be limited to, the order of preference for custody of minor children and the meaning of the custody arrangements under Part 2 (commencing with Section 3020) of Division 8.

(e) Conduct research on the effectiveness of current family law for the purpose of shaping future public policy.

SEC. 17. Section 3025.5 of the Family Code is amended to read:

3025.5. In any proceeding involving child custody or visitation rights, if a report containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child is submitted to the court, including, but not limited to, a report created pursuant to Chapter 6 (commencing with Section 3110) of this part, a recommendation made to the court pursuant to Section 3183, and a written statement of issues

and contentions pursuant to subdivision (b) of Section 3151, that information shall be contained in a document that shall be placed in the confidential portion of the court file of the proceeding, and may not be disclosed, except to the following persons:

- (a) A party to the proceeding and his or her attorney.
- (b) A federal or state law enforcement officer, judicial officer, court employee, or family court facilitator of the superior court of the county in which the action was filed, or an employee or agent of that facilitator, acting within the scope of his or her duties.
- (c) Counsel appointed for the child pursuant to Section 3150.
- (d) Any other person upon order of the court for good cause.

SEC. 18. Section 3170 of the Family Code is amended to read:

3170. (a) If it appears on the face of a petition, application, or other pleading to obtain or modify a temporary or permanent custody or visitation order that custody, visitation, or both are contested, the court shall set the contested issues for mediation.

(b) Domestic violence cases shall be handled by Family Court Services in accordance with a separate written protocol approved by the Judicial Council. The Judicial Council shall adopt guidelines for services, other than services provided under this chapter, that courts or counties may offer to parents who have been unable to resolve their disputes. These services may include, but are not limited to, parent education programs, booklets, video recordings, or referrals to additional community resources.

SEC. 19. Section 3173 of the Family Code is amended to read:

3173. (a) Upon an order of the presiding judge of a superior court authorizing the procedure in that court, a petition may be filed pursuant to this chapter for mediation of a dispute relating to an existing order for custody, visitation, or both.

(b) The mediation of a dispute concerning an existing order shall be set not later than 60 days after the filing of the petition.

SEC. 20. Section 3188 of the Family Code is amended to read:

3188. (a) Any court selected by the Judicial Council under subdivision (c) may voluntarily adopt a confidential mediation program that provides for all of the following:

(1) The mediator may not make a recommendation as to custody or visitation to anyone other than the disputing parties, except as otherwise provided in this section.

(2) If total or partial agreement is reached in mediation, the mediator may report this fact to the court. If both parties consent in writing, where there is a partial agreement, the mediator may report to the court a description of the issues still in dispute, without specific reference to either party.

(3) In making the recommendation described in Section 3184, the mediator may not inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

(4) If the parties have not reached agreement as a result of the initial mediation, this section does not prohibit the court from requiring subsequent mediation that may result in a recommendation as to custody or visitation

with the child if the subsequent mediation is conducted by a different mediator with no prior involvement with the case or knowledge of any communications, as defined in Section 1040 of the Evidence Code, with respect to the initial mediation. The court, however, shall inform the parties that the mediator will make a recommendation to the court regarding custody or visitation in the event that the parties cannot reach agreement on these issues.

(5) If an initial screening or intake process indicates that the case involves serious safety risks to the child, such as domestic violence, sexual abuse, or serious substance abuse, the mediator may provide an initial emergency assessment service that includes a recommendation to the court concerning temporary custody or visitation orders in order to expeditiously address those safety issues.

(b) This section shall become operative upon the appropriation of funds in the annual Budget Act sufficient to implement this section.

(c) This section shall apply only in four or more superior courts selected by the Judicial Council that currently allow a mediator to make custody recommendations to the court and have more than 1,000 family law case filings per year. The Judicial Council may also make this section applicable to additional superior courts that have fewer than 1,000 family law case filings per year.

SEC. 21. Section 6303 of the Family Code is amended to read:

6303. (a) It is the function of a support person to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The person who alleges that he or she is a victim of domestic violence may select any individual to act as a support person. No certification, training, or other special qualification is required for an individual to act as a support person. The support person shall assist the person in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings where the person and the other party must be present in close proximity. The support person is not present as a legal adviser and shall not give legal advice.

(b) A support person shall be permitted to accompany either party to any proceeding to obtain a protective order, as defined in Section 6218. Where the party is not represented by an attorney, the support person may sit with the party at the table that is generally reserved for the party and the party's attorney.

(c) Notwithstanding any other provision of law to the contrary, if a court has issued a protective order, a support person shall be permitted to accompany a party protected by the order during any mediation orientation or mediation session, including separate mediation sessions, held pursuant to a proceeding described in Section 3021. Family Court Services, and any agency charged with providing family court services, shall advise the party protected by the order of the right to have a support person during mediation. A mediator may exclude a support person from a mediation session if the support person participates in the mediation session, or acts as an advocate, or the presence of a particular support person is disruptive or disrupts the

process of mediation. The presence of the support person does not waive the confidentiality of the mediation, and the support person is bound by the confidentiality of the mediation.

(d) In a proceeding subject to this section, a support person shall be permitted to accompany a party in court where there are allegations or threats of domestic violence and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney.

(e) Nothing in this section precludes a court from exercising its discretion to remove a person from the courtroom when it would be in the interest of justice to do so, or when the court believes the person is prompting, swaying, or influencing the party protected by the order.

SEC. 22. Section 7553 of the Family Code is amended to read:

7553. (a) The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. Except as provided in subdivision (b), the court may order that it be paid by the parties in the proportions and at the times the court prescribes, or that the proportion of any party be paid by the county, and that, after payment by the parties or the county or both, all or part or none of it be taxed as costs in the action or proceeding.

(b) If the expert witness is appointed for the court's needs, the compensation shall be paid by the court.

SEC. 23. Section 7556 of the Family Code is amended to read:

7556. This part applies to criminal actions subject to the following limitations and provisions:

(a) An order for the tests shall be made only upon application of a party or on the court's initiative.

(b) The compensation of the experts, other than an expert witness appointed by the court for the court's needs, shall be paid by the county under order of court. The compensation of an expert witness appointed for the court's needs shall be paid by the court.

(c) The court may direct a verdict of acquittal upon the conclusions of all the experts under Section 7554; otherwise, the case shall be submitted for determination upon all the evidence.

SEC. 24. Section 1750 of the Government Code is amended to read:

1750. Resignations shall be in writing, and made as follows:

(a) By the Governor and Lieutenant Governor, to the Legislature, if it is in session; and if not, then to the Secretary of State.

(b) By all officers commissioned by the Governor, to the Governor.

(c) By Senators and Members of the Assembly, to the presiding officers of their respective houses, who shall immediately transmit the resignation to the Governor.

(d) By all officers of a county or special district other than an air pollution control district which includes territory in more than one county or a school district, not commissioned by the Governor, to the clerk of the board of supervisors of their respective counties, unless by the terms of the act under which a district is formed appointment to vacancies is made by other than

the board of supervisors, in which case the resignation shall be submitted to the appointing body.

(e) By officers of a superior court, to the presiding judge.

(f) By officers of a municipal corporation, to the clerk of the legislative body of their corporation.

(g) By all other appointed officers, to the body or officer that appointed them.

SEC. 25. Section 23249 of the Government Code is amended to read: 23249. The commission shall determine:

(a) An equitable distribution, as between the transferring county and the accepting county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed boundary change in each affected county.

(c) The economic viability of each affected county if the proposed boundary change is effected.

(d) The final boundary lines between the two affected counties as they will exist if the proposed boundary change is effected.

(e) A procedure for the orderly and timely transition of services, functions, and responsibilities from the transferring county to the accepting county.

(f) The division of both affected counties into five supervisorial districts. The boundaries of the districts shall be established in a manner that results in a population in each district which is as equal as possible to the population in each other district within the county.

(g) The division of both affected counties into a convenient and necessary number of road and school districts, the territory of which shall be defined. To the extent possible, existing road and school districts located within the territory which is to be transferred shall be maintained.

SEC. 26. Section 23332 of the Government Code is amended to read: 23332. The commission shall determine all of the following:

(a) A fair, just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed county creation on each affected county.

(c) The economic viability of the proposed county.

(d) The final boundaries of the proposed county, pursuant to Sections 23337, 23337.5, and 23338.

(e) A procedure for the orderly and timely transition of service functions and responsibilities from the affected county or counties to the proposed county.

(f) The division of the proposed county into five supervisorial districts. The boundaries of the districts shall be established in a manner which results in a population in each district which is as equal as possible to the population in each of the other districts within the county.

(g) The division of the proposed county into a convenient and necessary number of road and school districts, the territory of which shall be defined. To the extent possible, existing road and school districts located within the territory of the proposed county shall be maintained.

(h) Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be filled by election shall be those which by law, are required to be filled by election.

(i) That the boundaries of the proposed county do not create a territory completely surrounded by any affected county.

(j) The location of the county seat of the proposed county.

(k) The appropriations limit for the proposed county in accordance with Section 4 of Article XIII B of the California Constitution.

The commission shall not be required to make any other determinations.

SEC. 27. Section 23535 of the Government Code is amended to read:

23535. The commission shall determine:

(a) The fiscal impact of the proposed consolidation on the affected counties.

(b) A procedure for the orderly and timely transition of services, functions, and responsibilities from each affected county to the consolidated county.

(c) The division of the proposed consolidated county into five supervisorial districts.

(d) The division of the proposed consolidated county into a convenient and necessary number of road and school districts, the territory of which shall be defined.

(e) The county officers to be elected at the election provided for in Section 23550.

(f) The location of the county seat of the proposed consolidated county.

SEC. 28. Section 24350 of the Government Code is amended to read:

24350. Each salaried officer of a county shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

SEC. 29. Section 24351 of the Government Code is amended to read:

24351. Unless otherwise specifically provided for by law, each officer of a county shall on the certificate of the auditor immediately deposit in the county treasury all trust money coming into the officer's possession officially. Trust money so deposited shall be withdrawn only on a warrant issued by the county auditor drawn upon requisition of the officer depositing the money.

SEC. 30. Section 24353 of the Government Code is amended to read:

24353. Each officer of a county authorized to collect money shall pay into the county treasury all money collected by him or her, or under his or her control, that is payable into the treasury in a timely manner, and shall remit fee, fine, and forfeiture data within 35 days after the end of the month in which they are collected to the county auditor and treasurer in the form

they require. No officer who collects money as described in this section shall be required to accept payment in coin. If the county auditor finds that an officer of the county has failed to comply with the requirements for payment of moneys pursuant to this section or Section 68101, which directly results in the assessment of a financial penalty pursuant to Section 68085, the county department that failed to comply shall reimburse the county general fund in an amount equal to the actual penalty. With the approval of the treasurer as provided in Section 27080.1, each depositing officer may deposit directly into the treasurer's active account all money payable into the county treasury.

SEC. 31. Section 25252.6 of the Government Code is amended to read:

25252.6. The board of supervisors may in its discretion establish and determine the amount of, or may by resolution authorize the county auditor to establish and determine the amount of, a revolving cash trust fund for the purpose of eliminating delays which adversely affect the official operation of offices and departments of the county resulting from regular deposits in and withdrawals from a trust fund established for the use of any county officer or department head. The amount of the revolving cash trust fund shall not exceed the amount of the trust fund. The revolving cash trust fund shall be used by the officer or department head for payment of services, expenses, or other charges which are legally payable out of the deposits in the trust fund.

SEC. 32. Section 27080.1 of the Government Code is amended to read:

27080.1. Where the county treasurer has entered into a contract for the deposit of moneys with a depository pursuant to Section 53682, the county treasurer may authorize any county officer, required to deposit into the county treasury all money collected by him or her, to deposit that money directly into the depository with whom the county treasurer has entered into the contract. The county treasurer may also authorize any superior court officer to deposit money collected by the officer that is payable to the county treasury into the depository. All deposits made under authority granted by the treasurer pursuant to this section shall be made in the form as required by the treasurer, and receipts for those deposits shall be given in accordance with Section 27009.

SEC. 33. Section 29320 of the Government Code is amended to read:

29320. As used in this article, "officer of the county" includes any elective or appointive officer of a county and any person in charge of any office, department, service, or institution of the county, or a division or branch thereof.

SEC. 34. Section 29370 of the Government Code is amended to read:

29370. The board of supervisors may establish a county officers cash difference fund for the use of any county officer or administrative head of any county department handling county funds by adopting a resolution setting forth the amount of the fund. Certified copies of the resolution shall be transmitted to the county auditor and to each county officer or administrative head of a county department who has such fund.

SEC. 35. Section 29370.1 of the Government Code is amended to read:

29370.1. (a) As an alternative to Section 29370, the board of supervisors may, by resolution, authorize the county auditor to perform the functions of the board in establishing, increasing, reducing, or discontinuing any county officers cash difference fund.

(b) The resolution adopted by the board of supervisors may set the amount of the fund. If the board of supervisors adopts the resolution, the county auditor shall do all of the following:

(1) Be subject to the same requirements and limitations otherwise prescribed for the board of supervisors in this article.

(2) In lieu of acting by resolution, act by signed statement having the same content otherwise prescribed in this article for resolutions.

(3) Render a written report to the board of supervisors at the end of each fiscal year identifying the cash difference funds in existence during the fiscal year, the amount of those funds, and the officer using the fund. The board of supervisors may require the county auditor to give an account of the cash difference fund at any other time.

(c) The county auditor shall send a copy of his or her signed statement to each county officer or administrative head of a county department who has the fund.

SEC. 36. Section 29371 of the Government Code is amended to read:

29371. If the board elects to establish a cash difference fund, it shall by the same resolution also establish an overage fund for the use of each county officer or administrative head of a county department affected.

SEC. 37. Section 29372 of the Government Code is amended to read:

29372. Upon the adoption of the resolution, the auditor shall draw a warrant in favor of the county officer or administrative head of a county department in the amount set forth in the resolution, and the treasurer shall pay the warrant. The county officer or administrative head of a county department shall use this fund only for cash deficits pursuant to this article.

SEC. 38. Section 29373 of the Government Code is amended to read:

29373. Any person in any county office or department in which a cash difference fund has been established who receives and disburses money placed in the person's custody as directed by law or by official authority, shall render a written report to the county officer or administrative head of a county department at the close of each business day, setting forth the exact sum of any cash deficit or overage in the person's account for that day. Failure to report any cash deficit or overage at the close of the business day in which it occurred is a violation of this article.

SEC. 39. Section 29374 of the Government Code is amended to read:

29374. If a cash deficit is reported to the county officer or administrative head of a county department, the county officer or administrative head shall immediately reimburse the cash charged to the person in the amount of the cash deficit. The reimbursement shall not exceed the amount in the cash difference fund unless that fund is replenished by the board of supervisors, and in any event is not to exceed the sum appropriated by the board.

SEC. 40. Section 29375 of the Government Code is amended to read:

29375. If an overage is reported to the county officer or administrative head of a county department involved, the county officer or administrative head shall immediately deposit the overage in the overage fund in the county treasury.

SEC. 41. Section 29376 of the Government Code is amended to read:

29376. Each county officer or administrative head of a county department having a cash difference fund shall upon demand of the auditor or the board of supervisors give an account of the cash difference fund.

SEC. 42. Section 29377 of the Government Code is amended to read:

29377. If the cash difference fund becomes exhausted, the county officer or administrative head of a county department involved may make a written application to the board of supervisors to have it replenished. In the application, the county officer or administrative head shall itemize each cash deficit as to amount, date of occurrence, and the name of the person whose account was reimbursed from the fund.

SEC. 43. Section 29379 of the Government Code is amended to read:

29379. The board may at any time discontinue the cash difference fund. If the cash difference fund is discontinued, the county officer or administrative head of a county department shall immediately give an account thereof and deposit any balance in that fund into the county general fund.

SEC. 44. Section 29603 of the Government Code is amended to read:

29603. The sums required by law to be paid to grand jurors and witnesses in criminal cases tried in a superior court, other than expert witnesses appointed by the court for the court's needs pursuant to Section 730 of the Evidence Code, are county charges.

SEC. 45. Section 31116 of the Government Code is amended to read:

31116. For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, a county may expend county funds to pay reasonable travel expenses of applicants for county employment in traveling, from any point within the continental United States, to and from the place or places at which the applicants are to be examined or interviewed. Such payments shall be authorized only upon a determination by the board of supervisors that the expenditure is necessary to recruit qualified persons needed by the county.

SEC. 46. Section 68083 is added to the Government Code, to read:

68083. Each salaried officer of a superior court shall charge, collect, and promptly deposit the fees allowed in each case, as provided by law. No salaried officer who collects fees shall be required to accept coin in payment of those fees.

SEC. 47. Section 68083.5 is added to the Government Code, to read:

68083.5. Each officer of a superior court authorized to collect money shall pay into the county treasury all money collected by that officer, or under the officer's control, that is payable into the treasury in a timely manner, and shall remit fee, fine, and forfeiture data within 35 days after the end of the month in which they are collected to the county auditor and

treasurer in the form they require. No officer who collects money as described in this section shall be required to accept payment in coin. If the county auditor finds that an officer of the court has failed to comply with the requirements for payment of moneys pursuant to this section or Section 68101, which directly results in the assessment of a financial penalty pursuant to Section 68085, the superior court that failed to comply shall reimburse the county general fund in an amount equal to the actual penalty. With the approval of the treasurer as provided in Section 27080.1, each depositing officer may deposit directly into the treasurer's active account all money payable into the county treasury. On and after January 1, 2006, this section does not apply to money collected under Chapter 5.8 (commencing with Section 70600) of Title 8 or fees and fines to which Section 68085.1 applies.

SEC. 48. Section 68098 of the Government Code is amended to read:

68098. Witness' fees in criminal cases in superior courts, other than fees for expert witnesses appointed by the court for the court's needs pursuant to Section 730 of the Evidence Code, are charges against the same funds as grand jurors' fees in criminal cases.

SEC. 49. Section 1305.5 is added to the Penal Code, to read:

1305.5. Notwithstanding Sections 85, 580, 904.1, and 904.2 of the Code of Civil Procedure, the following rules apply to an appeal from an order of the superior court on a motion to vacate a bail forfeiture declared under Section 1305:

(a) If the amount in controversy exceeds twenty-five thousand dollars (\$25,000), the appeal is to the court of appeal and shall be treated as an unlimited civil case.

(b) Except as provided in subdivision (c), if the amount in controversy does not exceed twenty-five thousand dollars (\$25,000), the appeal is to the appellate division of the superior court and shall be treated as a limited civil case.

(c) If the bail forfeiture was in a felony case, or in a case in which both a felony and a misdemeanor were charged, and the forfeiture occurred at or after the sentencing hearing or after the indictment or the legal commitment by a magistrate, the appeal is to the court of appeal and shall be treated as an unlimited civil case.

SEC. 50. Section 1306 of the Penal Code is amended to read:

1306. (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. The judgment shall be the amount of the bond plus costs, and notwithstanding any other law, no penalty assessments shall be levied or added to the judgment.

(b) If a court grants relief from bail forfeiture, it shall impose a monetary payment as a condition of relief to compensate the people for the costs of returning a defendant to custody pursuant to Section 1305, except for cases where the court determines that in the best interest of justice no costs should

be imposed. The amount imposed shall reflect the actual costs of returning the defendant to custody. Failure to act within the required time to make the payment imposed pursuant to this subdivision shall not be the basis for a summary judgment against any or all of the underlying amount of the bail. A summary judgment entered for failure to make the payment imposed under this subdivision is subject to the provisions of Section 1308, and shall apply only to the amount of the costs owing at the time the summary judgment is entered, plus administrative costs and interest.

(c) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(d) A dismissal of the complaint, indictment, or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(e) The district attorney or county counsel shall:

(1) Demand immediate payment of the judgment within 30 days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in these cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure. Notwithstanding Sections 85, 580, 904.1, and 904.2 of the Code of Civil Procedure, jurisdiction of the appeal, and treatment of the appeal as a limited civil case or an unlimited civil case, is governed by Section 1305.5.

(f) The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.